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HEADQUARTERS EIGHTH ARMY
United States Army
Office of the Staff Judge Advocate

Yokohama, Japan
14 October 1948

UNITED STATES OF AMERICA VS KAP CHIN SONG

Review of the Staff Judge Advocate

1. The attached record of trial of Kap Chin Song at Yokohama, Japan, on 22 January 1948 by a Military Commission appointed by paragraph 17, Special Orders No. 14, Headquarters Eighth Army, United States Army, dated 19 January 1948, having been referred to the Staff Judge Advocate, this review is submitted to the Commanding General.

Personal Data Concerning Accused

NAME: Kap Chin Song	DATE OF CONFINEMENT: 5 January 1946
AGE: Forty-five (45)	DATE OF ARRAIGNMENT: 22 January 1948
RESIDENCE: 507 Banchi, Mahokw, Daikoch, Seoul, Korea.	PLACE OF TRIAL: Yokohama
MARITAL STATUS: Married	PERIOD OF TRIAL: 22 January 1948
RELATIVES: Wife, Kim Soo O; daughter, Yo Ja; Father, Su Yong Song; mother, Chung Ming Sin; brother, Pong Ching Song; sisters, Fou Lee Song and Cha Kun Tu Song.	DATE OF SENTENCE: 22 January 1948
EDUCATION: Kyoto Ritsumei Kan University	SENTENCE: CHL for ten (10) years
VOCATION: Policeman	CLEMENCY-RECOMMENDED BY COMMISSION: No.
MILITARY CAREER: None - Detective in the Korean Provincial Police Force	

2. Synopsis of Charges, Pleas, Findings, Legal Sufficiency and Sentence:

<u>Charges and Specifications:</u>	<u>Pleas</u>	<u>Findings</u>	<u>Legally Sustained</u>
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KAP CHIN SONG

Charge: Accused, at the times and places set forth in the specifications attached hereto, and during a time of war between the United States of America, its Allies and Dependencies and Japan, did violate the Laws and Customs of War.	NG	G	Yes
Sp 1: On numerous occasions between 8 December 1941 and 25 May 1942, inclusive, at or near Seoul, Korea, the accused, KAP CHIN SONG, with other unidentified persons or person, did willfully and unlawfully mistreat and torture Edward H. Miller, a United States citizen, by beating him, subjecting him to the "water-cure" treatment by forcing water through his mouth and nostrils, incarcerating him in a public jail, depriving him of and neglecting to furnish him with food, quarters and sanitation, and by otherwise abusing him.	NG	Guilty, except the following words: "incarcerating him in a public jail, depriving him of and neglecting to furnish him with food, quarters and sanitation". Of the excepted words, Not Guilty.	Yes

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Sp 2: On numerous occasions between 8 December 1941 and 25 May 1942, inclusive, the accused, with other unidentified persons or person, did willfully and unlawfully mistreat and torture Ralph O. Reiner, a United States citizen, by beating him, subjecting him to the "water-cure" treatment by forcing water through his mouth and nostrils, incarcerating him in a public jail, depriving him of and neglecting to furnish him with food, quarters and sanitation, and by otherwise abusing him.

NG

Guilty, except the following words "in-carcerating him in a public jail, depriving him of and neglecting to furnish him with food, quarters and sanitation". Of the excepted words, Not Guilty. Yes

Sp 3: On numerous occasions between 8 December 1941 and 25 May 1942, inclusive, the accused, with other unidentified persons or person, did willfully and unlawfully mistreat and torture Edwin Wade Koons, a United States citizen, by beating him, subjecting him to the "water-cure" treatment by forcing water through his mouth and nostrils, incarcerating him in a public jail, depriving him of and neglecting to furnish him with food, quarters and sanitation, and by otherwise abusing him.

NG

Guilty, except the following words "in-carcerating him in a public jail, depriving him of and neglecting to furnish him with food, quarters and sanitation". Of the excepted words, Not Guilty. Yes

3. Summary of the Evidence:

a. For the Prosecution:

As to Specification 1: On 8 December 1941, Rev. Edward H. Miller, a United States citizen and a Presbyterian missionary was arrested as a PW by the Japanese police and interned in the Methodist Theological Seminary, West Gate District, Seoul, Korea. On 13 December 1941, PW Miller was removed from the internment camp and taken to the Yongsan Police Station for interrogation. The accused, the chief examiner of the Yongsan Police Station, a Korean Police official, and unknown Japanese Police officers interrogated Miller and accused him of being an American spy, which the latter denied. Miller was subsequently interrogated at irregular intervals by accused between the period 13 December 1941 and 25 May 1942. During this period PW Miller was confined in a prison cell approximately 12 feet square which was without adequate sanitation facilities, was not provided with adequate food and was not permitted to shave, cut his hair or bathe. During many of the interrogations he was severely beaten with a rubber hose by the accused and in mid-January the accused subjected Miller to the "water cure" treatment, forcing water through his mouth and nostrils (Ex. 1).

As to Specification 2: On 8 December 1941, Ralph O. Reiner, a United States citizen and Presbyterian missionary, was arrested by the Japanese police as an internee and interned at the Gendarmerie for for a period of ten days and then transferred to the Methodist Theological Seminary. On 1 May 1942, Reiner was taken to the Yongsan Police Station where he was imprisoned until 25 May 1942. During this period of confinement Reiner was subjected to six "water-cure" treatments by the accused and suffered many severe beatings with a rubber hose administered by the accused. The conditions existing at the Yongsan Police Station were terrible; the sanitation facilities and food being inadequate and the PW was not permitted to shave, cut his hair or bathe. Accused was described by Reiner "as a man of considerable ability, read English with some ease, cunning, shrewd, crooked and possessed of a tongue better trained to lying than in telling the truth." (Ex. 4).

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As to Specification 3: Dr. Edwin Wade Koons, a United States citizen and former missionary in Korea stated that he was taken from the Methodist Seminary internment camp to Ryuzan Police Station on 6 May 1942 by a "Mr. A", later identified as the accused, where he was confined until 25 May 1942. During confinement Koons suffered several severe beatings with a piece of rubber hose at the hands of a "Mr. B" and was subjected to the "water-cure" treatment on 6 May 1942 by the accused and "Mr. B" (Ex. 7).

b. For the Defense:

Accused pleaded not guilty to the charge and all specifications (R 3). The accused, after being warned of his rights as a witness, took the witness stand and testified under oath. He admitted being present at and participating in the third degree interrogations of Miller, Reiner, and Koons. He also admitted beating them with a rubber hose and administering the "water-cure" treatments to them, but claimed that said punishments were administered by orders of Tomozawa and Nagata, his superiors (R 11). Accused stated that he was a member of the Korean underground working in the interest of Allied cause (R 12). He stated he was ordered to join the Korean Police Force by said organization in the furtherance of the movement and that the position he occupied was that of an ordinary policeman without authority to initiate arrests or give orders (R 13). That he participated in said events only because he was ordered to do so by superior authorities and had he failed to do so he would have been arrested by the Kempei Tai (R. 12). He further stated that when he beat Miller, Reiner and Koons with a rubber hose that he held it in such a manner that it would not hurt them and that such actions were not willful or malicious (R 15).

Counsel for defense also contended that the Commission was without jurisdiction in the instant case as Miller, Reiner and Koons were arrested on charges of espionage and hence were not entitled to the same treatment accorded ordinary prisoners of war.

4. Opinion:

a. There are no errors or irregularities which injuriously affect any substantial rights of the accused. The trial was held without partiality and adequate opportunity was given to the accused to present any matter in his defense that he might desire. The accused was ably represented by American and Japanese counsel and he fully cooperated in his defense.

b. There is no evidence that the accused was insane or otherwise incompetent at the time of the trial or at the time of the alleged commission of the offenses. Insanity was not an issue at the trial.

c. There have been no questions in the record that were not properly decided by the Commission upon the hearing of the evidence presented. Two-thirds of the members of the Commission present at the time the vote was taken concurred in the findings and sentence.

d. The various objections made during the trial were ruled upon by the Law Member of the Commission and his rulings thereon cannot be said to be prejudicial to the rights of the accused.

e. There is sufficient evidence in the record of trial, including the affidavit of the victims properly received in evidence by the Commission, which conclusively establishes the guilt of the accused for the offenses of which he was convicted.

f. The accused is an educated man, having attended Kyoto University and should be held strictly accountable for his barbarous deeds. Taking into account the respective ages of Miller, Reiner, and Koons and the probable consequence of the treatment accorded them while incarcerated the sentence is legal and not excessive.

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g. The Commission was constituted by proper authority and had jurisdiction over the accused and of the offenses charged. (See SCAP Regulations AG 000.5, 5 December 1945, LS, Subject: "Regulations Governing the Trials of Accused War Criminals"; Case Docket No. 189, Kuroiwa and application of Yamashita 66 S. Ct. 340)

5. Recommendations:

a. There are no letters of clemency from any members of the commission or from others.

b. The Commission sentenced the accused to confinement at hard labor for a period of ten (10) years. The sentence is legal and is not excessive.

c. It is recommended that the sentence be approved. In compliance with established policy, owing to the length of time accused has spent in confinement prior to the date of sentence, it is recommended twenty-one and one-half (21½) months of the confinement at hard labor imposed be remitted. Accused was confined 5 January 1946; he was sentenced 22 January 1948. Sugamo Prison, Tokyo, Honshu, Japan, is the appropriate place of confinement.

6. Action:

Attached hereto is a form of action designated to carry into effect the above recommendations should they meet with your approval.

JOHN H. VOGEL
Reviewer
Judge Advocate Section

I concur in general.

ALLAN R. BROWNE
Lt Colonel JAGP
Army Judge Advocate



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